

FREUND *v.* YAEGERMAN.¹

District Court, E. D. Missouri. March 25, 1886.

1. ASSIGNMENTS—SECTION 354, REV. ST. MO.—MORTGAGING ENTIRE ASSETS.

Petition for rehearing denied.

2. COURTS—CONSTRUCTION OF.

The only Missouri court which is an authoritative expounder of the state statutes is the supreme court.

In Equity. Petition by the defendant for a rehearing.

For a report of the previous opinion in this case, see 26 Fed. Rep. 812.

A. Binswanger and E. Smith, for complainant.

Robert Goode, for defendant.

BREWER, J., (*orally.*) In *Freund* against *Yaegerman* there is a petition for a rehearing. The case comes clearly within the line of the cases heretofore decided in this court, commencing with *Martin v. Hausman*, 14 Fed. Rep. 160, and ending with *Clapp v. Nordmeyer*, 25 Fed. Rep. 71. In the course of the various opinions that I have had occasion to express, I have stated fully my own views, and the reasons why, in deference to the opinions of the other judges in this district, including the presiding justice, I have made those decisions. In the last, or next to the last, of those cases I stated that that would be the rule of this court until there had been an authoritative declaration by the supreme court of the United States or the supreme court of the state of Missouri to the contrary. Now there is presented a decision of the Kansas City court of appeals which it is claimed enunciates views different from those announced heretofore, and in harmony with the opinions that I personally hold, and I am asked to reverse the line of decisions here. That is not an authoritative exposition of the law in Missouri. The St. Louis court of appeals may rule one

way and the Kansas City court of appeals another. There is but the one authoritative expounder of the Missouri statutes in this state, and that is your supreme court. So the petition for the rehearing will be denied.

¹ Reported by Benj. F. Rex, Esq., of the St. Louis bar.

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